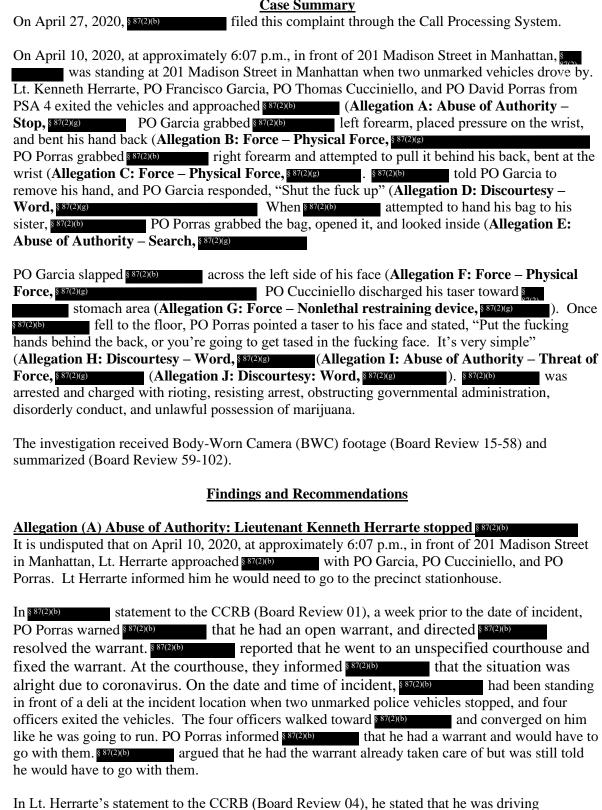
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	<b>V</b>	Discourt.	П	U.S.
Shadman Khan		Squad #12	202002878	-	Abuse		O.L.	☐ □	Injury
Shadhan Man		Squad #12	202002070		riouse	ш	O.L.	Ľ	Injury
Incident Date(s)		Location of Incident:		P	recinct:	18	Mo. SOL		EO SOL
Friday, 04/10/2020 6:07 PM		Front of 201 Madison	Street	Ï	07	10	0/10/2021		5/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rec	eived at CC	RB	
Mon, 04/27/2020 10:38 AM		CCRB	Call Processing System		Mon, 04/2	7/202	20 10:38 AI	M	
Complainant/Victim	Type	Home Addre	ess						
Witness(es)		Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. POM Francisco Garcia	19234	952763	PSA 4						
2. POM David Porras	08967	939244	PSA 4						
3. POM Thomas Cucciniello	19308	962338	PSA 4						
4. LT Kenneth Herrarte	00000	941039	PSA 4						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. POM Zachary Palladino	10746	964694	007 PCT						
Officer(s)	Allegatio	on			Inve	stiga	ator Recor	nme	endation
A.LT Kenneth Herrarte	Abuse: L	ieutenant Kenneth Herr	rarte stopped § 87(2)(b)						
B.POM Francisco Garcia	Force: Poagainst § 8	olice Officer Francisco (	Garcia used physical	forc	ee				
C.POM David Porras	Force: Poagainst § 8	olice Officer David Porr	as used physical for	ce					
D.POM Francisco Garcia		esy: Police Officer Francously to \$87(2)(b)	cisco Garcia spoke						
E.POM David Porras	Abuse: P	olice Officer David Por	ras searched § 87(2)(b)						
F.POM Francisco Garcia	Force: Poagainst § 8	olice Officer Francisco (37(2)(b)	Garcia used physical	forc	e				
G.POM Thomas Cucciniello	Force: Poagainst § 8	olice Officer Thomas Cu	acciniello used a tase	er					
H.POM David Porras		esy: Police Officer Davi ously to \$87(2)(b)	d Porras spoke						
I.POM David Porras		olice Officer David Por with the use of force.	ras threatened § 87(2)(b)	)					
J.POM David Porras		esy: Police Officer Davi ously to \$87(2)(b)	d Porras spoke						

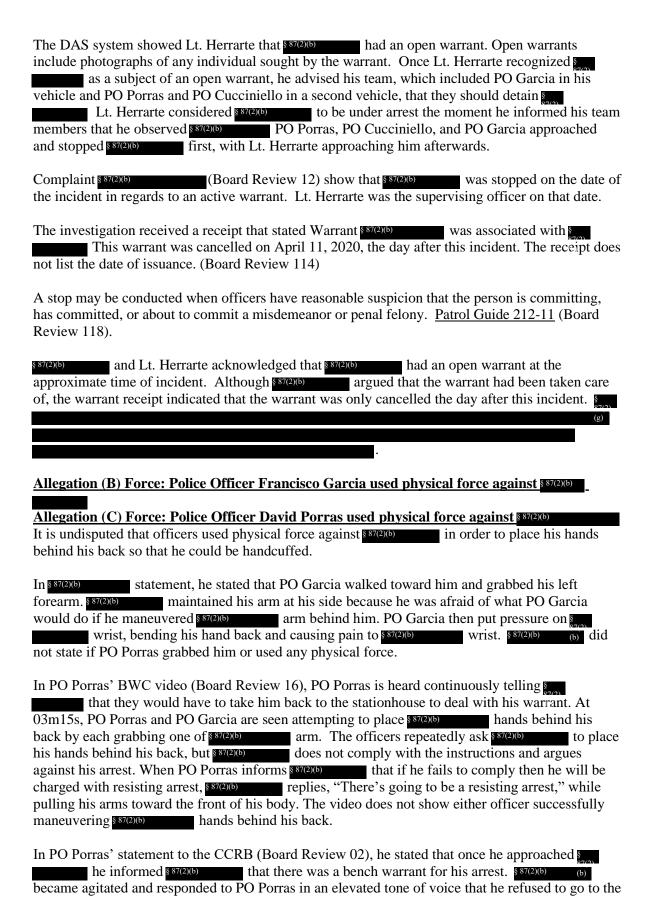
## **Case Summary**



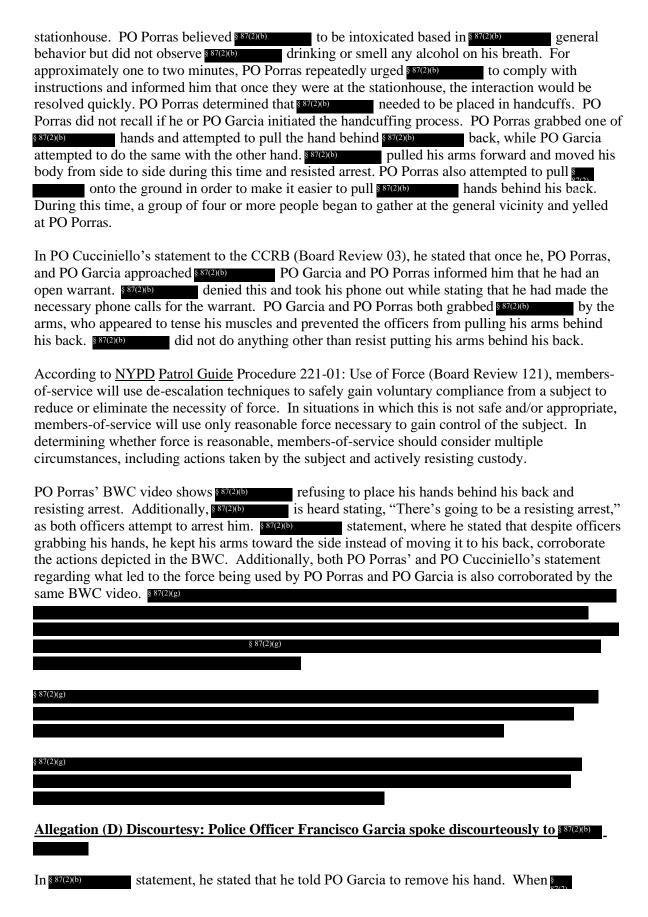
CCRB Case # 202002878

street intersection of Madison Street and Rutgers Street. On the date of incident, Lt. Herrarte had reviewed the DAS system prior to patrol for people who had active warrants and active I-Cards.

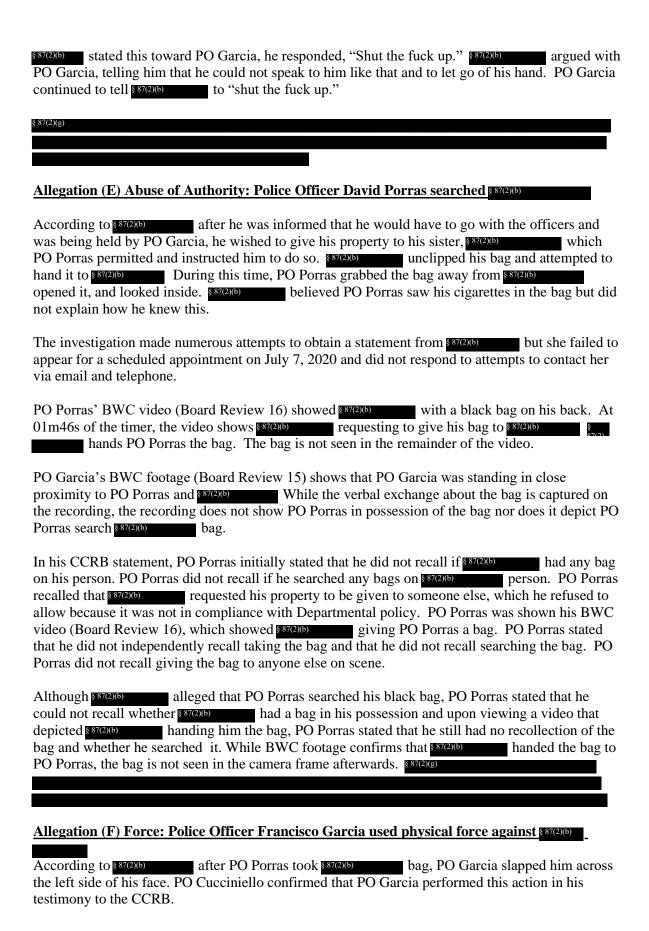
westbound on Madison Street in Manhattan when he first observed \$87(2)(6)



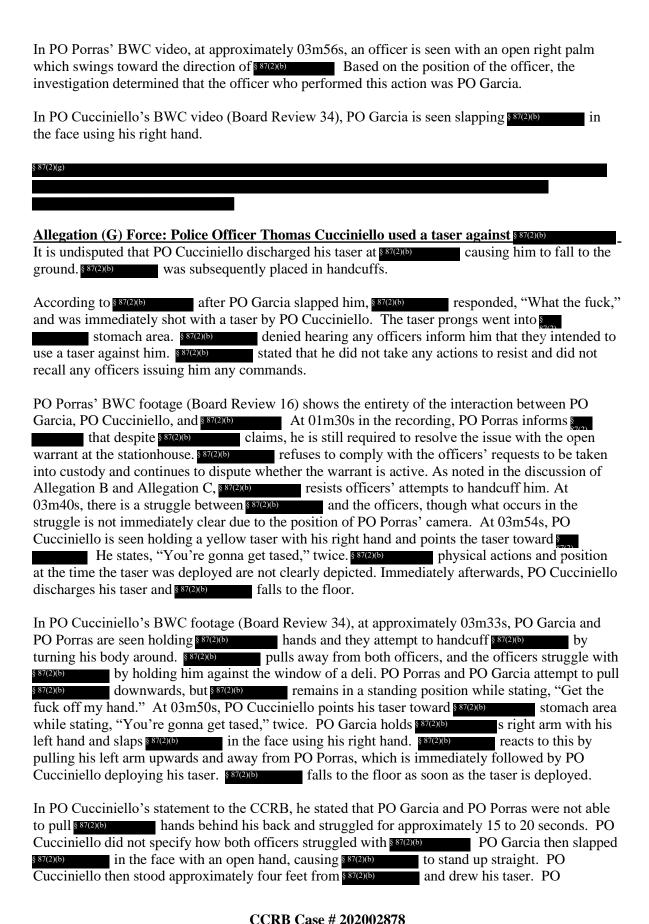
CCRB CTS – Confidential Page 2



CCRB CTS – Confidential Page 3



CCRB CTS – Confidential Page 4



Cucciniello pointed his taser toward and repeatedly stated that he was going to discharge his taser at him. PO Cucciniello then deployed his taser toward PO Cucciniello cycled his taser once for approximately 5 seconds. PO Cucciniello used the taser because he wished to subdue him and had no other viable methods to do so. He stated that the use of pepper spray, an asp, or additional hand strikes were not tactically optimal at the time.

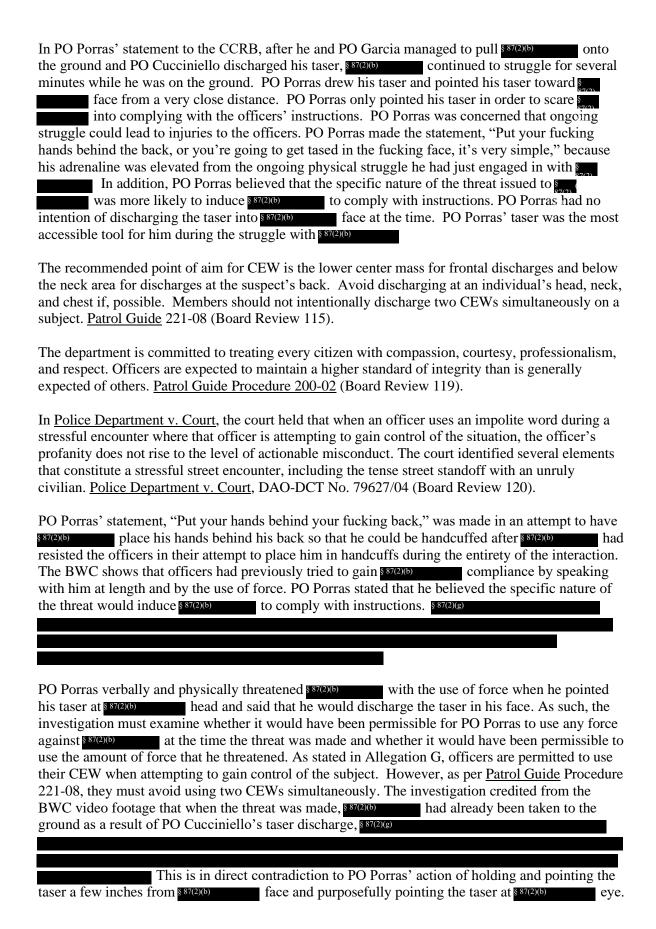
PO Cucciniello's Taser Data Sheet for the date of the incident shows that his taser was used and cycled for five seconds (Board Review 14).

A conducted energy weapon should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or another person(s) present. When feasible, issue a verbal warning consistent with personal safety to the intended subject in conjunction with a laser warning. Patrol Guide Procedure 221-08 (Board

All parties agree that PO Cucciniello used his taser against \$87(2)(6) while PO Garcia and PO Porras struggled to place him in handcuffs. As shown in PO Porras' and PO Cucciniello's BWC videos, \$87(2)(b) resisted both PO Garcia and PO Porras during the arrest and even stated, "There's going to be a resisting arrest." § 87(2)(b) refused to place his hands behind his back and continued to keep them at his side despite PO Garcia's and PO Porras' physical attempts to pull the arms behind his back. §87(2)(b) refusal to place his hands behind his back by resisting the officers' physical attempts to do so constitutes active resistance. § 87(2)(g) As PO Cucciniello explained, the use of an asp, mace, or hand strikes were not tactically viable due to the circumstances. As per Patrol Guide Procedure 221-08, an officer should provide verbal warnings when possible before using a taser to gain control of an individual who is actively resisting. §87(2)(g) Allegation (H) Discourtesy: Police Officer David Porras spoke discourteously to (87/2)(6) Allegation (I) Abuse of Authority: Police Officer David Porras threatened 887(2)(6) with the use of force. Allegation (J) Discourtesy: Police Officer David Porras spoke discourteously to \$87(2)(6) stated that once he was tased, he quickly fell to the ground. Once on the ground, PO Porras stood over him and pointed another taser in his face. PO Porras stated, "If you don't stop, I'm going to taser you in the face." \$87(2)(b) recalled hearing this statement while he was still being tasered by PO Cucciniello.

In PO Porras' BWC video (Board Review 17), at 04m10s of the timer, PO Porras has a taser held in his left hand and is heard stating, "Put your fucking hands behind the back, or you're going to get tased in the fucking face. It's very simple." Afterwards, between 04m12s and 04m28s, PO Porras continues to hold his taser a few inches away from \$\frac{87(2)(6)}{2}\$ forehead and directs \$\frac{87(2)(6)}{2}\$ to put his hand behind his back before putting the taser away. At 04m17s, the red light on the taser shows that the taser is being pointed directly at \$\frac{87(2)(6)}{2}\$ eye.

Review 115).



	icted in the BWC seem to indicate gely restrained by officers at the ti	
2)(g)		
767		
	Civilian and Offic	cer CCRB Histories
	Civilian and Office	ter CCRB Histories
§ 87(2)(b)		
_		
	e has been a member of service for and eight allegations, none of wh	or 15 years and has been a subject in six CCRB iich were substantiated. §87(2)(g)
PO Garcia	had been a member of service for	eight years \$\$7200
and h	nad been a subject in five CCRB co	omplaints and eight allegations, none of which
were subst	antiated. § 87(2)(g)	
		15 years and has been a subject in nine CCRB
PO Porras		
PO Porras complaints	has been a member of service for and 22 allegations, none of which	
PO Porras complaints PO Cuccin	has been a member of service for and 22 allegations, none of which	n were substantiated. §87(2)(g)
PO Porras complaints PO Cuccin	has been a member of service for and 22 allegations, none of which tiello has been a member of service to which he has been a subject.	e for four years, and this is the first CCRB
PO Porras complaints PO Cuccin complaint	has been a member of service for and 22 allegations, none of which tiello has been a member of service to which he has been a subject.  Mediation, Civil laint was not suitable for mediation	e for four years, and this is the first CCRB  and Criminal Histories on.
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PO Porras complaints PO Cuccin complaint This comp	has been a member of service for and 22 allegations, none of which tiello has been a member of service to which he has been a subject.  Mediation, Civil laint was not suitable for mediation	e for four years, and this is the first CCRB  and Criminal Histories on. ce of the Comptroller has no record of a Notice

Squad No.:	<u>12</u>		
Investigator:	Shadman Khan Signature	Investigator Shadman Khan Print Title & Name	July 28, 2021 Date
Squad Leader:	Carlmais Johnson Signature	IM Carlmais Johnson Print Title & Name	July 28, 2021 Date
Reviewer:	Signature	Print Title & Name	Date